	Application No.	Applicant(s)	
Communication Re: Appeal	09/435,748	BUCKLEY ET AL.	
	Examiner	Art Unit	
	Mark Ruthkosky	1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☐ The Notice of Appeal filed on _____ is not acceptable because:

    (a) ☐ it was not timely filed.

    (b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 41.20(b)(1).

    (c) ☐ the appeal fee received on _____ was not timely filed.

    (d) ☐ the submitted fee of $_____ is insufficient. The appeal fee required by 37 CFR 41.20(b)(1) is $_____.

    (e) ☐ the appeal is not in compliance with 37 CFR 41.31(a)(1) in that no claim has been twice rejected.

    (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on _____.

2. ☒ The appeal brief filed on <u>01 December 2005</u> is NOT acceptable for the reason(s) indicated below:

    (a) ☒ the brief and/or brief fee is untimely. See 37 CFR 41.37(a).

    (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 41.20(b)(2).

    (c) ☐ the submitted brief fee of $_____ is insufficient. The brief fee required by 37 CFR 41.20(b)(2) is $_____.

The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. See 37 CFR 41.37(a)(1). Extensions of time may be obtained under 37 CFR 1.136(a). See 37 CFR 41.37(e).

3. ☐ The appeal in this application is DISMISSED because:

    (a) ☐ the statutory fee for filing the brief as required under 37 CFR 41.20(b)(2) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.

    (b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.

    (c) ☐ a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on _____.

    (d) ☐ other: _____.

4. ☐ Because of the dismissal of the appeal, this application:

    (a) ☐ is abandoned because there are no allowed claims.

    (b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.

    (c) ☐ is before the examiner for consideration.

/Mark Ruthkosky/
Primary Examiner, Art Unit 1795